December 8, 1978

(1817)

MEMORANDUM

TO: The Files

FROM: Richard A. McCoy

SUBJECT: John Stoen Child Custody Case

The John Stoen child custody case became a very controversial issue involving the Peoples Temple, the Government of Guyana, (GOG) the Embassy in Georgetown, the Department of State and many members of Congress, apart from the child and the disputants. The case had a number of overtones that made it unsual. It had to deal with a number of complex issues and was the source of much concern in the Department and the Embassy in Georgetown.

Mrs. Grace Stoen had initially filed for custody of her son in the state of California in early 1977. In subsequent hearings a competent California judicial authority awarded custody of John Stoen to his mother. Unfortunately this court order was ineffect since John Stoen had been brought to Guyana sometime in 1976 either by his parents or with their consent. Mrs. Stoen's U.S. attorney travelled to Guyana in early September 1977 to attempt to regain custody of the child for his client.

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The attorney, Mr. Jeffrey Haas, first met with the Charge d'Affaires, Mr. John Blacken on August 31 to discuss the case. On September 1 upon my return from Jonestown I joined the discussions. Mr. Blacken has arranged an appointment for Mr. Haas to meet with the Minister of Justice who was also the Minister of Foreign Affairs on September 1. The Minister of Justice after reviewing the documents that were presented by Mr. Haas called in the Solicitor General of Guyana to also review them. Both officials agreed that under Guyanese law these documents were not enforceable. The Minister of Justice thought that the case should be resolved quickly and the child returned to his mother. The Minister instructed the Solicitor General to assist Mr. Haas in retaining a compentent Guyanese attorney.

At the initial hearing a summons was prepared for Jim Jones to appear with John Stoen in court in Georgetown on Friday, September 9. However, an attempt to serve summons on Jones on September 6 was unsuccessful. On September 9, Haas, a Guyanese Court Marshall, and two police officers again attempted to serve summons.

The group was met by a hostile reception and attempts to have a Temple representative accept summons were unsuccessful. When the Court Marshall nailed three copies of the summons on different buildings, they were torn down by Temple members and thrown into the group's land rover. (Georgetown 2178 and 2175; Log 26)

I attended the September 12 hearings when the presiding judge issued orders for the arrest of John Stoen to bring him into court. He further directed Jones summoned to appear and show cause why he should not be held in contempt of court and finally, if Jones failed to appear to be taken into custody. (Georgetown 2206; Log 28)

Unfortunately, it became apparent that the order of habeas corpus issued on September 12 along with the arrest order would not be signed and enforced. Apparently political figures within the GOG had decided to allow Jones to appear in court voluntarily rather than by summons. After several days passed with no movement, Mr. Haas met with the Charge' on September 15 to request Embassy assistance.

After reviewing the information presented by Mr. Haas, the Charge' decided to send the Minister of Foreign Affairs

a diplomatic note expressing United States Govenment concern over the intrusion of the Government of Guyana (GOG) into a judicial matter. The Embassy pointed out that such intrusion of the Government into what was purely a judicial matter for the courts to decide created a dangerous precedence. The note reminded the Minister of Foreign Affairs that all of the disputants in this case were American citizens and that the case involved an order by a compentent U.S. judicial authority awarding custody of John Stoen to his mother. (Georgetown 2269; Log 33)

Several days later on September 21, the Foreign Minister notified our Charge' that the GOG had decided to act on the court orders issued on September 10. (Georgetown 2316; Log 35)

The case continued on September 23 when the Peoples Temple Guyanese attorney challenged a motion of previous rulings of the presiding judge. In particular, the Peoples Temple attorney indicated that an additional individual, Joyce Touchette should be included in the case on the grounds that the child had been given to her by his mother. Arguments by Stoen's local attorney that Jones and John Stoen be brought to Georgetown were not decided upon at this meeting. (Georgetown 2334, Log 36)

The case continued in this vain through Septmeber 30, 1977 when hearings had been completed on the motion of Habeus Corpus and the arrest of Jones. Peoples Temple attorney told me that he believed the Judge would rule in his favor because of certain errors that had been made in the early stages of the case. He cited the following reasons: a) the lack of personal service on Jones; b) the order to arrest John Stoen was not legal under Guyanese law; and c) the questionable admissability and enforceability of the California court order. (Georgetown 2435, Log 40)

On October 6, the judge had cancelled all previous orders by the court because the Peoples Temple attorney was able to present a valid unrevoked custody order signed by Mrs. Grace Stoen giving custody of John Stoen to Joyce Touchette. The Temple attorney was able to show the court that the original court order issued in California and all subsequent orders emanating from previous hearings in Guyana should be set aside because Mrs. Stoen had not made full disclosure of all pertinent facts. (Georgetown 2528, Log 29)

The Department of State received from Mr. Haas on November 22, a California court order assigning joint custody of John Stoen to his parents and revoking any

previous custody assignments signed by the father or mother. The lawyer also presented notarized statements from Mrs. Stoen revoking any and previous powers of attorney or other authorization granting custody of her minor son, John Stoen to any third party. (Georgetown 27920; Log 45)

On January 5, the Department received a request from Congressman Ryan among others on behalf of the Stoen family expressing his concern about the impartiality of the courts in this case. The Embassy responded on January 6 that the next hearing was scheduled for January 7 and expressed their opinion that they thought the court would be impartial. (State 00264, Log 61; Georgetown 0057, Log 62)

In addition to the concern expressed by Congressman Ryan, Jeff Haas complained to Assistant Secretary for Congressional Relations Douglas Benett that the Embassy and the Department had not provided his clients with sufficient assistance. It was Haas' opinion that the Government of Guyana had intervened in the case on the side of the Peoples Temple and continued to block the arrest order that had earlier been given by the presiding judge. Haas considered that this was a clasic denial of justice and

indicated strong evidence that the courts were partial to Jones. {State 00465, Log 62}

The next hearing on the case was held on January 7, 1978. In a reversal of his earlier opinion, Haas told me that he was now optimistic about the outcome and was convinced that this time the GOG was not influencing the judge to decide against Stoen. Nevertheless, Haas mentioned that the evidence submitted by his clients was so strong that the judge had no alternative but to rule in their favor. He did express concern that the GOG might not enforce a court decision in favor of the Stoens. In this connection Mr. and Mrs. Stoen met with the Minister of Home Affairs on January 6 and received his assurances that the court's ruling would be enforced. {Georgetown 0092; Log 64}

At this hearing on January 7, the Judge still did not rule on whether he would stay the original arrest order issued against Jones but he did mention that the court had jurisdiction and that Haas had proper authority to represent Grace Stoen. The judge ruled that the Temple had until Tuesday, January 10 to conclude arguments on its behalf.

The hearings on January 10 concluded with the judge reserving his decision on motions that the order of arrest against Jim Jones be voided and the motion of the Stoen's attorney for habeus corpus be enforced. The judge indicated

he would present his decision in writing. During the hearings the presiding judge indicated that he and his clerk had received telephone calls from individuals who sounded like Americans inquiring about the case. He emphasized to all participants that he would decide this case solely on the law and the facts presented in court. (Georgetown 0147, Log 66)

As a side issue to the custody case, the Stoens were ordered on January 13 by the Guyanese Immigration Service to depart Guyana within 24 hours. No reason was given for the expulsion order. The Embassy immediately contacted the Foreign Minister to request the expulsion order be lifted. A diplomatic note was also sent requesting that the Stoens be permitted to remain in Guyana until the case was concluded. As a result of the Embassy actions the expulsion order was lifted and the GOG stated the Stoens could remain until the case was concluded. (Georgetown 0201, Log 75 and Georgetown 0202, Log 76)

The Stoens departed Guyana on January 18 and 20 respectively after the judge had not presented his decision. Jim Jones had informed me on January 11 that if the decision should go against him he intended to appeal. (Georgetown 0270, Log 80)

On January 27, Timothy Stoen came into the Department to request that the U.S. Government obtain from the GOG specific

guarantees that any court decision awarding custody of John Stoen to his parents be enforced with due diligence. Stoen informed State Department officers that he thought Jones would attempt to circumvent any adverse decision. Department requested Embassy's advice and thoughts concerning substance of this request by Stoen. {State 022642, Log 82}

The Embassy replied on February 1 that at this time we thought making such a request on the Stoen's behalf could prejudice the case. The Embassy reminded the Department that the Minister of Home Affairs had given his personal assurances to Timothy Stoen that the order would be enforced. The Embassy also mentioned that it had made the GOG acutely aware of both USG and congressional interest in this case. It had been discussed with several cabinet ministers and numerous GOG officials. The Embassy had maintained a position that since all the disputants were American citizens, it would be improper for it to take sides and such a request could be construed as U.S. Government interference in the hearings. {Georgetown 0405, Log 84}

The Department agreed with Embassy assesment and believed it would be inappropriate for the Embassy to make any approach at this time. {State 029903, Log 83}

The Department on February 9 requested the Embassy to hire a local attorney in order to provide advice on the Stoen case. The Department felt that such advice would be invaluable should there be other custody cases in the future. (State 034403, Log 89)

On February 14 the Department asked the Embassy to approach the GOG and inquire when a decision on the Stoen custody case could be expected. The Department reported rising number of congressional inquiries concerning the slow pace of the proceedings. The Department did not wish the Embassy to interfere in the proceedings per se, but they believed one month to be sufficient time to rule on motions presented on January 10. (State 039014, Log 91)

The Embassy responded to the Department's cable on February 15. I discussed the case with Stoen's local attorney. The Attorney advised me that a one month delay was not unusual since the court calender was extremely full and that it could take up several months of research and drafting before the Judge could complete his opinion. I also met with the Minister of Justice on February 24 to discuss the Stoen case. The Minister stated that the time that had lapsed since the last hearing was not considered excessive. He stated that the normal period was up to four months. I mentioned to the Minister of the heavy

congressional interest in the Stoen case and pointed out that my visit was for information purposes only and not to indicate U.S. Government concern. The Minister remarked that he had recently been appointed as Minister of Justice because of his reputation as a legal technician who would defend the judiciary from government interference. Accordingly, at this time the Embassy decided not to retain a local attorney but to continue to consult with its wide range of judicial and legal contacts. (Georgetown, 0549, 0581, 0631; Log 92, 96, 97)

Case entered hiatus with the departure of presiding justice from Guyana to attend a seminar on labor law.

Case took an abrupt and unexpected turn when on August 12 the presiding judge annonced that because of pressure tactics mounted upon on the government and the court, he had decided to disassociate himself from the case involving the custody of a non-Guyanese child and had returned the case to the Chief Justice for reasignment. (Georgetown 2629, Log 135)

The Department was contacted by Mr. Timothy Stoen after the judge's decision and was understandably upset by this unexpected occurrance. In view of the judge's action and delay in adjudicating the case, Embassy was requested informally to discuss this matter at the appro-

priate level of the GOG to determine if the case had been reassigned and if the case can be acted upon expeditously. (Georgetown 228391, Log 136)

The Embassy reported on September 18 that the Deputy Chief of Mission had met with the Chief Justice of the Supreme Court and Registrar of the Court to discuss the status of the Stoen case. He expressed concern that after many months the case appeared to have made no progress and inquired as to what measures were next contemplated. The Chief Justice regretted the loss of the work and time with the withdrawal of the judge from the case. He explained that the judge had been harrassed by offensive calls and had found it necessary to hire a security guard for his residence. The Chief Justice said that unfortunately under Guyanese law, the case must be heard again from the beginning. (Georgetown 3016, Log 140)

On October 6, Timothy Stoen informed the Department by telegram that he intended to retreve his son within two months by any means and considered the State Department conduct inexcusable in ignoring the intervention of Guyanese Government into the custody case involving his son. (State 255332, Log 147)

On October 10, the Embassy reported that the Stoen case had been assigned to a new high court justice. The Embassy understood that the perliminary hearings had been held on October 3 with the next hearing to be held on November 7 at which time a date was to be set to begin once again the motions on the case. (Georgetown 3338, Log 148)

The hearing on November 7 was postponed upon agreement of all the parties. The case ended with the tragic event that occurred at Jonestown on November 18.

12/8/78